

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

**WHARF RETAIL PROPERTIES, LLC,)
Plaintiff,)
vs.) CIVIL ACTION NO. 1:22-00449-KD-B
LANDMARK AMERICAN INSURANCE)
COMPANY,)
Defendant.)**

ORDER

This civil action for breach of an insurance contract came before the Court for jury selection on the morning of April 22, 2024, with United States District Judge Kristi K. DuBose presiding. The jury was selected and duly sworn and trial commenced that same day.¹ Plaintiff Wharf Retail Properties, LLC (“Wharf”) presented its case and rested on April 23, 2024. Defendant Landmark moved for judgment as a matter of law on the issue of whether Landmark waived/is estopped from relying on the coinsurance provision of the insurance policy. As set forth on the record, the motion was taken under advisement and Judge DuBose withheld ruling on it. Defendant Landmark also moved for judgment as a matter of law as to other issues, which were denied for reasons more specifically set forth on the record.

Landmark presented its case and rested on April 24, 2024. The Court conducted its jury charge conference and heard the parties’ respective positions and objections regarding the final jury instructions and verdict form. Landmark then renewed its motion for judgment as a matter of law on the issue of waiver/estoppel from its reliance on the coinsurance provision of the insurance policy, which the Court granted as set forth on the record. Landmark made several

other motions for judgment as a matter of law that the Court denied for reasons more specifically set forth on the record. Next, the parties gave their closing arguments. The Court then instructed the jury on the applicable law and the jury began their deliberations.

On that day, the jury, having heard the evidence, the arguments of counsel, and having considered the same upon their oaths, returned their verdict, finding that Defendant Landmark breached the insurance contract with Plaintiff Wharf. The Court reserves entering judgment pending briefing due from both parties on or before **May 8, 2024**.

DONE and ORDERED this **26th** day of **April 2024**.

/s/ Kristi K. DuBose
KRISTI K. DUBOSE
UNITED STATES DISTRICT JUDGE

¹ Before jury selection, the Court addressed Defendant Landmark American Insurance Company's ("Landmark") Motions in Limine, (Docs. 124, 125), for reasons more specifically set forth on the record.